

**ORDERS ON APPLICATION FILED UNDER SECTION
239/245/258 OF Cr.P.C**

1. The accused has preferred this application praying this court to discharge him from the offences involved in the case on the grounds that complainant had been supplying the rice bags to the accused and during the course of business the accused has issued the below mentioned four cheques in discharge of his liability.

Sl No.	Date	Cheque Number	Amount
1	19.05.2018	000921	Rs.3,79,500
2	19.05.2018	000898	Rs.5,91,767
3	21.05.2018	000924	Rs.2,37,170
4	21.05.2018	000899	Rs.5,36,500

2. It is further urged that when the said cheques were presented for encashment it came to be dishonored. Thereafter the complainant issued one consolidated statutory notice through R.P.A.D on which returned with postal endorsement as " REFUSED. Since the accused did not make good the amount covered under the cheque, the complainant had filed one consolidated complaint under Section 138 of the Negotiable Instruments Act against the accused. He strongly urges that when four cheques are dishonored it gives rise to four distinct alleged offences and therefore the complainant ought to have filed separate complaints in respect of four cheques. As there is no

provision for consolidation of cases in the Code of Criminal Procedure, the instant complaint against the accused is not legally maintainable in the eye of law thus deserved to be dismissed by discharging the accused.

3. The complainant has filed detailed objection and contended that there is no bar in the code to file one single complaint for all four cheques and therefore the complaint is very much maintainable.

4. Heard both sides. Perused the authorities relied by both the parties.

5. After having heard the submissions rendered by the bar, the points that arise for consideration is

1. Whether one consolidated notice can be issued demand the amount covered under more than one cheque?

2. If more than one cheque is issued by the same person and single complaint is filed in respect of more cheques, does it vitiates the law?

3. What order?

6. Without beating round the bush, let me answer the above questions. With respect to point No.1, in a decision K R Indira V/s

Dr. G. Adinarayana reported in (2003) 8 SCC 300, the Apex court has held that

“In a given case if the consolidated notice is found to provide sufficient information envisaged by the statutory provision and there was a specific demand for the payment of the sum covered by the cheque dishonoured, mere fact that it was consolidated notice, and/or that further demands in addition to the statutorily envisaged demand was also found to have been made may not invalidate the same”.

7. It is not the case of the accused that the statutory notice involved in the case, lacks the requisite information as envisaged under section 138(b) of NI act when the ingredients are made out in the notice, there would be no harbinger to hold it as valid notice. Therefore, I answer Point No.1 in the affirmative.

8. As an answer to point No.2 it is fruitful to refer to a decision in Tiruchandoor Muruhan Spinning vs Madanlal Ramkumar Cotton And others reported in ILR 2000 Kar 5000, wherein the High court of Karnataka has held that

“There is no bar for lodging a complaint for initiation of action under Section 138 of the Negotiable Instruments Act in respect of 10 cheques as the accused committed the offence punishable under

Section 138 of the Negotiable Instruments Act. In fact it is not to his disadvantage but it is an advantage that a single complaint is lodged against the accused by the complainant”

9. Even in the instant case, it is more advantageous to accused as he is residing at Lathur, Maharashtra he need to travel to Yadgir, every time for every single case. Therefore, I answer point No.2 in the negative.

10. In view of the foregoing reasons, I proceed to pass the following

O R D E R

The application filed by the accused under section 239/245/258 OF Cr.P.C stands rejected on costs of Rs. 5000/- payable to complainant. Payment of cost is condition precedent to participate further, in the proceedings.

Call on for Plea. 15.10.2020

Sd/-

Civil Judge and JMFC, Yadgir